

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 463 of 1992

For Approval and Signature:

Hon'ble MR.JUSTICE B.C.PATEL

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1. Whether Reporters of Local Papers may be allowed : NO  
to see the judgements?
  2. To be referred to the Reporter or not? : NO
  3. Whether Their Lordships wish to see the fair copy : NO  
of the judgement?
  4. Whether this case involves a substantial question : NO  
of law as to the interpretation of the Constitution  
of India, 1950 of any Order made thereunder?
  5. Whether it is to be circulated to the Civil Judge? : NO

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C.H. JOSHI

Versus

HASAN KALA

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Appearance:

MR DN PATEL, AGP for Petitioner

MR BHARGAV N BHATT for Respondents

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CORAM : MR.JUSTICE B.C.PATEL

Date of decision: 17/11/2000

ORAL JUDGEMENT

1. The Director of Animal Husbandry has filed this petition under Article-227 of the Constitution of India being aggrieved by the order made by the Presiding Officer of Labour Court at Rajkot in Reference (LCR) No.

1826 of 1987 on 30th April, 1991.

2. From the award which is placed on the record, it appears that the respondent filed claim vide Exh.6 stating that he was serving as workman in Pradeshik Dairy, Rajkot. He was illegally transferred. He did not report for duty at the place where he was transferred. A demand notice was given to the opponent for his reinstatement in service as he was not allowed to join duties, but, the opponent did not reinstate him. On appreciation of evidence, it is pointed out in para-16 that if a government servant remains absent from duty for 3 years continuously inclusive of absence with leave, or without leave, he cannot continue in Government service. In the instant case, he was not remaining present and therefore, his services were terminated. The Tribunal was of the view that unless and until a decision is rendered in light of special circumstances, action could not have been taken. The Tribunal has also recorded that the transfer was made vide Order dated 21/8/1972 and the reference has been filed in the year 1987. Workman was not entitled to any reinstatement in services or back-wages. There was no order of termination placed on the record and therefore, according to the Tribunal, workman continued to be the Government Servant thereafter.

3. Suffice it to say that in this case, the Tribunal on the facts, ordered reinstatement of the workman in continued services to his original post within one month, but, without any back-wages till he is reinstated in service. The learned Advocate for the respondent is not remaining present before the Court. Even earlier, he was not present. It was stated on 06/10/2000 that the workman is not reporting for duties since long and therefore, it appears that he is not interested in the proceedings. However, in view of the order made by the Tribunal, this Court would not like to interfere and hence, this Special Civil Application is rejected. Rule discharged.

(B.C. Patel, J.)

kamlesh\*